

**REMARKS**

Upon entry of the foregoing amendments, claims 1-6, 8-14, and 16-18 are now pending. No claims have been canceled. Claims 17 and 18 have been added to recite subject matter previously recited in claims 1 and 9. Claims 1 and 9 have been amended. No new matter has been added. Claims 1 and 9 are the independent claims.

**Claim rejection under 35 U.S.C. § 103 (a)**

Claims 1-6, 8-14, and 16 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over the teachings of U.S. Patent No. 6,801,949 to Bruck *et al.* (“Bruck”) in view of U.S. Patent No. 5,774,660 to Brendel *et al.* (“Brendel”). Applicant respectfully traverses this rejection because the combination of Bruck and Brendel do not teach or suggest the claimed method or computer readable medium.

The Virtual Interface Architecture is well known in the art of network stacks. Generally, a network stack, for example TCP/IP, is the collection protocols that control communication amongst computers. While TCP/IP may be the most prevalent network stack in use, it is not the only known network stack.

VIA provides an alternative network stack for high speed applications such as server clusters. VIA devices, as they are known, may have virtual interfaces that bypass the device’s operating system. As a result, the devices generally have lower latency than their TCP/IP counterparts.

The combination of Bruck and Brendel does not teach or suggest the claimed fail-over method for a VIA computing device. To the contrary, Bruck and Brendel each disclose load balancing techniques for TCP/IP computing devices. For example, FIG. 4 of Bruck shows TCP and IP layers within the network stack. Also, FIGS. 7, 12, 13, 14, and 17 of Brendel show the role of TCP/IP within the disclosed asymmetrical load balancer.

Both Bruck and Brendel focus on internet and web applications, which generally rely on the TCP/IP stack. Accordingly, neither disclose details of other network stacks because their solutions rely on the features and functions related to TCP/IP networks, such as IP addressing.

Independent claims 1 and 9 now recite “the NAM at the computing device being a Virtual Interface Architecture device.” Bruck and Brendel disclose load balancing solutions

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for TCP/IP devices, not VIA devices. Thus, the combination of Bruck and Brendel does not teach or suggest all of the claim limitations.

Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 1-6, 8-14, and 16 under 35 U.S.C. § 103(a).

In view of the above amendments and remarks, Applicant respectfully submits that the present application is in condition for allowance. Reconsideration of the application and an early Notice of Allowance are respectfully requested.

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